

REPORT OF THE AUDITOR-GENERAL ON NATIONAL WATER HARVESTING AND STORAGE AUTHORITY FOR THE YEAR ENDED 30 JUNE, 2019

REPORT ON THE FINANCIAL STATEMENTS

Qualified Opinion

I have audited the accompanying financial statements of National Water Harvesting and Storage Authority set out on pages 1 to 36, which comprise the statement of financial position as at 30 June, 2019, and the statement of financial performance, statement of changes in net assets, statement of cash flows and statement of comparison of budget and actual amounts for the year then ended, and a summary of significant accounting policies and other explanatory information in accordance with the provisions of Article 229 of the Constitution of Kenya and Section 35 of the Public Audit Act, 2015. I have obtained all the information and explanations which, to the best of my knowledge and belief, were necessary for the purpose of the audit.

In my opinion, except for the effect of the matters described in the Basis for Qualified Opinion section of my report, the financial statements present fairly, in all material respects, the financial position of National Water Harvesting and Storage Authority as at 30 June, 2019, and of its financial performance and its cash flows for the year then ended, in accordance with International Public Sector Accounting Standards (Accrual Basis) and comply with the Water Act, 2016 and the Public Finance Management Act, 2012.

Basis for Qualified Opinion

1. Unsupported and Offsetting of Trade and Other Payables from Exchange Transactions

The statement of financial position reflects trade and other payables from exchange transactions balance of Kshs.1,134,402,781. However, as previously reported, the balance included debit balances totaling Kshs.444,255,818 for which supporting schedules were not provided and which were offset against the payables contrary to the provisions of Paragraph 48 of IPSAS 1 – Presentation of Financial Statements - which prohibits offsetting of assets and liabilities, revenue and expenses.

In addition, included in the balance of Kshs.1,134,402,781 were trade payables of Kshs.384,013,234 which had been outstanding for more than one year and for which Management did not provide detailed supplier ledgers and supporting documents for audit verification.

In view of the foregoing, it was not possible to confirm the accuracy, validity and completeness of the trade and other payables from exchange transactions balance of Kshs.1,134,402,781.

2. Long Outstanding Unreconciled Items in Cash and Cash Equivalents

The statement financial position reflects cash and cash equivalents amount of Kshs.256,191,108. However, as previously reported, the balance excluded Kshs.31,860,430 relating to unposted items reflected in the bank reconciliations, as detailed below:

Account Name	Account No.	Date First Reported	Amount (Kshs.)
Development A/c	1114280593	2009	24,671,142
Special A/c	1114279978	2006	2,133,280
Recurrent A/c	1114280488	2006	5,056,008
			31,860,430

The items have been outstanding for more than 10 years and it is not clear why Management has not investigated the unposted items to clear them from the reconciliation statements.

Further, as disclosed in Note 18 to the financial statements, a credit balance of Kshs.5,020 was offset against the reported cash and cash equivalents balance contrary to the provisions of Paragraph 48 of IPSAS 1 – Presentation of Financial Statements - which prohibits offsetting of assets and liabilities, revenue and expenses

In addition, the recurrent account bank reconciliation statement reflected a cashbook under cast of Kshs.1,956,997, a reconciling item which should have been adjusted in the cashbook before preparing the reconciliation.

Consequently, it was not possible to confirm the accuracy and completeness of the cash and cash equivalents balance of Kshs.256,191,108 as at 30 June, 2019.

3. Undisclosed Receivables from Exchange Transactions

The statement of financial position reflects receivables from exchange transactions amounting to Kshs.674,383,971. However, as previously reported, the balance excludes water supply debts of Kshs.1,377,265,028 and pre-payments totaling to Kshs.754,400 transferred to Water Service Boards (currently Water Works Development Agencies) under various agreements between the Authority and the Water Service Boards in the financial year 2005/2006. However, the agreements had not been formalized and the legal status of the debts remained uncertain.

Consequently, the accuracy and completeness of the reported receivables balance could not be confirmed.

4. Long Outstanding Receivables from Non-Exchange Transactions

As disclosed in Note 20 to the financial statements, the statement of financial position reflects receivables from non-exchange transactions amounting to Kshs.92,339,809. However, the following issues were noted;

- (i) As reported in the prior year, the receivables amount includes staff salary advances of Kshs.3,641,273 out of which Kshs.1,213,269 had been outstanding for periods beyond 90 days against the Authority's policies but were yet to be recovered from the payroll.
- (ii) The receivables from non-exchange transactions also include deposits amounting to Kshs.14,017,475, which have remained outstanding from the Judiciary from 2015/2016 financial year.
- (iii) The receivables also include temporary imprests of Kshs.92,983,913 which were yet to be surrendered by the end of the financial year, and Management was yet to make recoveries of the outstanding amounts through the payroll. However, a specific provision for bad debts of Kshs.18,302,852 on outstanding imprest has been made, and according to Management, this relates to staff members who have either passed on or left the Authority.

In the circumstances, it has not been possible to confirm the recoverability of receivables from non-exchange balance of Kshs.92,339,809 as at 30 June, 2019.

5. Undisclosed and Long Outstanding Loans

As previously reported, the Authority has not disclosed in its financial statements an outstanding balance of Kshs.2,460,874,897 relating to various loans. In addition, although the loan repayments were due, the Authority had not made any repayment nor recognized in the books of account the interest due, together with the related arrears. According to Management, the loans were supposed to have been passed over to the Water Works Development Agencies which took over the facilities constructed using the loans, and which were supposed to generate the revenue to repay the loans. However, no formal documentation was provided to support the explanation.

Further, although Management explained that the Authority had no capacity to repay the loans without financial support from The National Treasury and that they had sought the intervention of the Ministry of Water on the matter, the loans continued to attract interest and penalties and the lenders might invoke the terms of lending to the disadvantage of the Authority, the Water Works Development Agencies or The National Treasury.

6. Undisclosed Property, Plant and Equipment

The statement of financial position reflects a balance of Kshs.20,710,104,989 under property, plant and equipment. However, and as previously reported, the balance excludes an amount of Kshs.16,781,832 being the value of various assets earmarked for transfer to various Water Works Development Agencies. Although Management explained that the Ministry of Water, Sanitation and Irrigation had directed the Agencies to have the transfer agreements signed, the matter had not yet been finalized as at the time of the audit.

Consequently, the accuracy and completeness of the reported balance of Kshs.20,710,104,989 for property, plant and equipment could not be confirmed.

The audit was conducted in accordance with International Standards of Supreme Audit Institutions (ISSAIs). I am independent of the National Water Harvesting and Storage Authority Management in accordance with ISSAI 130 on Code of Ethics. I have fulfilled other ethical responsibilities in accordance with the ISSAI and in accordance with other ethical requirements applicable to performing audits of financial statements in Kenya. I believe the audit evidence obtained is sufficient and appropriate to provide a basis for my qualified opinion.

Key Audit Matters

Key audit matters are those matters which, in my professional judgment, are of most significance in the audit of the financial statements. There were no key audit matters to report in the year under review.

Other Matter

Unresolved Prior Year Audit Matters

As disclosed at the Progress on Follow Up of Auditor's Recommendations section of the financial statements, prior year audit matters remained unresolved as at 30 June, 2019.

REPORT ON LAWFULNESS AND EFFECTIVENESS IN USE OF PUBLIC RESOURCES

Conclusion

As required by Article 229(6) of the Constitution, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Lawfulness and Effectiveness in Use of Public Resources sections of my report, I confirm that, nothing else has come to my attention to cause me to believe that public resources have not been applied lawfully and in an effective way.

Basis for Conclusion

1. Work in Progress

The statement of financial position reflects a property, plant and equipment balance of Kshs.20,710,104,989 which, as disclosed in Note 22 to the financial statements, includes an amount of Kshs.20,118,587,213 relating to capital work - in - progress amounting to Kshs.20,118,587,213. The following audit findings were made:

1.1 Construction of Head Office

The work in progress balance of Kshs.20,118,587,213 includes an amount of Kshs.859,351,951 relating to the construction of a Head Office Block. The Authority awarded the contract for the construction of the office block to a local firm at a contract sum of Kshs.485,400,820 in 2008. However, as previously reported, the firm abandoned the project after being paid a total of Kshs.80,660,480. The Authority thereafter procured another firm for the project and by the end of the 2018/2019 financial year, a total of

Kshs.859,351,951 had been incurred on the building. This exceeded the original contract sum by Kshs.373,951,131 representing a variation of 77% contrary to the provisions of Section 139 (6) of Public Procurement and Asset Disposal Act, 2015 which provides that where variations result in an increment of the contract price by more than twenty-five percent, such variations shall be tendered for separately. Although Management explained that the cost escalations arose from change in prices between 2008 and 2011, it was not possible to confirm whether public funds were utilized in an effective manner.

Management was therefore, in breach of the law.

1.2 Siyoi – Muruny Dam

The work in progress balance of Kshs.20,118,587,213 also includes an amount of Kshs.4,762,838,041 relating to construction of the Siyoi Muruny Dam and Water Supply Project, located in West Pokot County, in two lots.

1.2.1 Lot 1

Lot 1 entailed construction of the dam whose contract was awarded to a Chinese contractor in March, 2015, at a contract price of Kshs.5,056,182,763. The certified works on the project as at 30 June, 2019 amounted to Kshs.4,951,286,259, out of which the cumulative payments totalled Kshs.4,762,838,041. Included in the cumulative payments was an amount of Kshs.2,123,822,597 paid to the contractor. However, although the contract, which was for thirty-six (36) months commencing 30 March, 2015 and ending on 30 March, 2018, had 3 extensions, to 20 July, 2018, 19 August, 2018 and subsequently to 16 March, 2020, the progress report provided for audit review indicated that only approximately 53% of the works had been completed as at 30 June, 2019.

Further, payment certificates totaling Kshs.76,217,535 due for payment as at 30 June, 2019 were yet to be settled and the contractor through a letter dated 29 March, 2019, issued a notice of suspension of works citing delay in honoring interim payment certificates. As at the time of the audit inspection in October, 2019, the contractor had withdrawn the machinery from the site.

According to Management, the inability to pay resulted from lack of budgetary allocation from The National Treasury.

1.2.2 Lot 2

Lot 2 entailed construction of Siyoi Kapenguria Water Supply for which the contract was awarded to a contractor in March, 2015 for 52 Months (225 Weeks) at a contract price of Kshs.4,149,828,304. The Project's cumulative payments of Kshs.4,762,838,041 includes an amount of Kshs.2,466,085,937 paid to the contractor as at 30 June, 2019. The contract completion date was extended by five (5) months to 29 August, 2018 and subsequently to 19 July, 2019 with associated costs amounting to Kshs.233,583,344. However, the progress report provided for audit indicated that work completed as at 31 March, 2019 was approximately 68%.

Further, payment certificates totaling Kshs.285,160,189 due for payment as at 30 June, 2019 were yet to be settled and the contractor through a letter dated 18 March, 2019, issued a notice of suspension of works citing delay in honoring interim payment certificates. As at the time of the audit inspection in October, 2019, the contractor had withdrawn the machinery, and there was no activity on site. According to Management, the inability to pay resulted from lack of budgetary allocation from The National Treasury.

Under the circumstances, it was not possible to confirm that the Project would be completed within schedule and in a cost-effective manner.

2. Excess Board of Directors

The statement of financial performance reflects remuneration of Directors expenditure of Kshs.13,256,227. However, the Cabinet Secretary appointed seven (7) Independent Directors to the Board instead of five (5) as provided for under Section 31(e) of the Water Act, 2016, resulting to an excess of two (2) Members. This resulted in unnecessary extra costs on remuneration to the Directors.

In view of the above, it was not possible to confirm that the Board was properly constituted and the propriety of the expenditure.

The audit was conducted in accordance with ISSAI 4000. The standard requires that I comply with ethical requirements and plan and perform the audit to obtain assurance on whether the activities, financial transactions and information reflected in the financial statements are in compliance, in all material respects, with the authorities which govern them. I believe that the evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

REPORT ON EFFECTIVENESS OF INTERNAL CONTROLS, RISK MANAGEMENT AND GOVERNANCE

Conclusion

As required by Section 7(1)(a) of the Public Audit Act, 2015, based on the audit procedures performed, except for the matters described in the Basis for Conclusion on Effectiveness of Internal Controls, Risk Management and Governance section of my report, I confirm that, nothing else has come to my attention to cause me to believe that internal controls, risk management and overall governance were not effective.

Basis for Conclusion

Composition of the Audit Committee

The Audit Committee did not have any Member with expertise in audit, financial management or accounting, experience and knowledge in risk management or

membership of professional body in good standing, as required under Section 3.4 (2) (b) of the Code of Governance for State Corporations (Mwongozo).

In the circumstances, the effectiveness of the Audit Committee in executing its oversight role, could not be confirmed.

The audit was conducted in accordance to ISSAI 2315 and 2330. The standards require that I plan and perform the audit to obtain assurance on whether effective processes and systems of internal control, risk management and overall governance, were operating effectively, in all material respects. I believe that the evidence I have obtained is sufficient and appropriate to provide a basis for my conclusion.

Responsibilities of Management and those Charged with Governance

Management is responsible for the preparation and fair presentation of these financial statements in accordance with International Public Sector Accounting Standards (Accrual Basis), and for maintaining effective internal control as Management determines is necessary to enable the preparation of financial statements which are free from material misstatement, whether due to fraud or error and for assessment of the effectiveness of the internal control, risk management and governance.

In preparing the financial statements, Management is responsible for assessing the Authority's ability to continue as a going concern, disclosing as applicable, matters related to going concern and using the going concern basis of accounting unless Management is aware of the intention to either terminate the Authority or cease operations.

Management is also responsible for the submission of the financial statements to the Auditor-General in accordance with the provisions of Section 47 of the Public Audit Act, 2015.

In addition to the responsibility for the preparation and presentation of the financial statements described above, Management is also responsible for ensuring that the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them, and that public resources are applied in an effective way.

Those charged with governance are responsible for overseeing the Authority's financial reporting process, reviewing the effectiveness of Management's systems for monitoring compliance with relevant legislative and regulatory requirements, ensuring that effective processes and systems are in place to address key roles and responsibilities in relation to governance and risk management, and ensuring the adequacy and effectiveness of the control environment.

Auditor-General's Responsibilities for the Audit

The audit objectives are to obtain reasonable assurance about whether the financial statements as a whole are free from material misstatement, whether due to fraud or error, and to issue an auditor's report which includes my opinion in accordance with the

provisions of Section 48 of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. Reasonable assurance is a high level of assurance, but is not a guarantee that an audit conducted in accordance with ISSAIs will always detect a material misstatement and weakness when it exists. Misstatements can arise from fraud or error and are considered material if, individually or in the aggregate, they could reasonably be expected to influence the economic decisions of users taken on the basis of these financial statements.

In addition to the audit of the financial statements, a compliance review is planned and performed to express a conclusion on whether, in all material respects, the activities, financial transactions and information reflected in the financial statements are in compliance with the authorities which govern them and that public resources are applied in an effective way, in accordance with the provisions of Article 229(6) of the Constitution, and submit the audit report in compliance with Article 229(7) of the Constitution.

Further, in planning and performing the audit of the financial statements and audit of compliance, I consider internal control in order to give an assurance on the effectiveness of internal controls, risk management and governance processes and systems in accordance with the provisions of Section 7(1)(a) of the Public Audit Act, 2015 and submit the audit report in compliance with Article 229(7) of the Constitution. My consideration of the internal control would not necessarily disclose all matters in the internal control which might be material weaknesses under the ISSAIs. A material weakness is a condition in which the design or operation of one or more of the internal control components does not reduce to a relatively low level, the risk that misstatements caused by error or fraud in amounts which would be material in relation to the financial statements being audited, may occur and not be detected within a timely period by employees in the normal course of performing their assigned functions.

Because of its inherent limitations, internal control may not prevent or detect misstatements and instances of non-compliance. Also, projections of any evaluation of effectiveness to future periods are subject to the risk that controls may become inadequate because of changes in conditions, or that the degree of compliance with the Authority's policies and procedures may deteriorate.

As part of an audit conducted in accordance with ISSAIs, I exercise professional judgement and maintain professional skepticism throughout the audit. I also:

- Identify and assess the risks of material misstatement of the financial statements, whether due to fraud or error, design and perform audit procedures responsive to those risks, and obtain audit evidence which is sufficient and appropriate to provide a basis for my opinion. The risk of not detecting a material misstatement resulting from fraud is higher than for one resulting from error, as fraud may involve collusion, forgery, intentional omissions, misrepresentations, or the override of internal control.
- Evaluate the appropriateness of accounting policies used and the reasonableness of accounting estimates and related disclosures made by the Management.

- Conclude on the appropriateness of the Management's use of the going concern basis of accounting and, based on the audit evidence obtained, whether a material uncertainty exists related to events or conditions which may cast significant doubt on the Authority's ability to continue as a going concern. If I conclude that a material uncertainty exists, I am required to draw attention in the auditor's report to the related disclosures in the financial statements or, if such disclosures are inadequate, to modify my opinion. My conclusions are based on the audit evidence obtained up to the date of my audit report. However, future events or conditions may cause the Authority to cease to continue as a going concern.
- Evaluate the overall presentation, structure and content of the financial statements, including the disclosures, and whether the financial statements represent the underlying transactions and events in a manner which achieves fair presentation.
- Obtain sufficient appropriate audit evidence regarding the financial information and business activities of the Authority to express an opinion on the financial statements.
- Perform such other procedures as I consider necessary in the circumstances.

I communicate with the Management regarding, among other matters, the planned scope and timing of the audit and significant audit findings, including any significant deficiencies in internal control which are identified during the audit.

I also provide Management with a statement that I have complied with relevant ethical requirements regarding independence and communicate with them all relationships and other matters which may reasonably be thought to bear on my independence, and where applicable, related safeguards.



Nancy Gathungu
AUDITOR-GENERAL

Nairobi

19 August, 2021